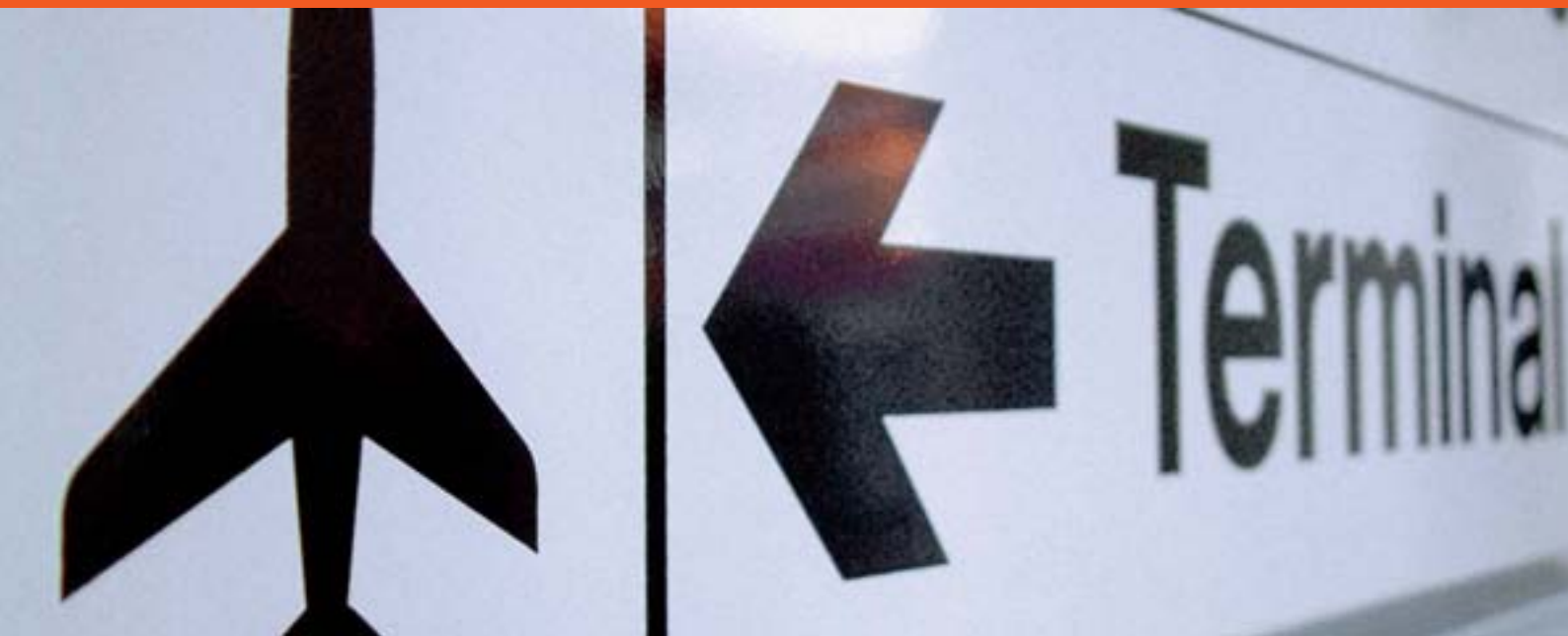


# Aviation & Airports



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## An Introduction to Mayer Brown

Major airlines as well as international airports demand lawyers who can advise on more than just law. We understand this and our clients are reassured that our teams have the necessary industry expertise and commercial awareness to achieve solutions. This in turn enables us to support our clients in delivering practical solutions to their customer requirements.

Advising clients from the Aviation Industry – air carriers, airports, aircraft manufacturers, aerospace service provider and financial investors – is one of Mayer Brown's traditional strengths. Our aviation clients particularly appreciate that we reflect the global dimension of their business by having offices in most of the aviation centers in the United States (Charlotte, Chicago, Houston, Los Angeles, New York, Palo Alto, Washington D.C.) and Europe (Berlin, Brussels, Cologne, Frankfurt, London, Paris).

Moreover, we provide our industry specific services via our worldwide "Aviation & Airports Group", a group of interdisciplinary lawyers focusing on aviation matters. By working closely together and constantly exchanging information within the group, we ensure that our lawyers are always up to date with regard to any relevant developments in the Aviation Industry.

Our German Aviation & Airports Group consists of lawyers who have been advising on aviation projects for years. It combines an in-depth knowledge of the specific characteristics of the aviation business with profound legal expertise in this field. Our lawyers frequently publish articles and commentaries on aviation topics. Our participation in this dialogue has a significant impact on the future development of Aviation Law.

### **Potential Areas of Interest to the Aviation Industry**

Our European offices have particular experience advising airport operators and airlines on issues relating to airports, such as airport fee structures, the reorganization of remuneration systems, outsourcings, slot allocation issues, planning procedures on airport extensions, aircraft/airport

financing, noise issues and general Aviation Law issues. Furthermore, our lawyers are highly skilled and experienced in all aviation related litigation issues.

We have detailed below a number of our legal practice areas (in alphabetic order), which may be of interest. Comprehensive lists relating to representative matters will be provided upon request for each area.

### **Aircraft and Asset Financing**

Our offices in New York, London and Cologne regularly advise clients on issues regarding aircraft finance transactions under German, English and New York State law.

We represent banks, borrowers, funders, governments, head-lessors, high net-worth individuals, lessees, lessors, manufacturers, owners, project companies, sponsors and state entities in a wide variety of leasing and asset finance transactions across the world. Our services cover a variety of financing instruments including ACMI (aircraft, crew, maintenance, insurance), dry or wet leases and all connected security structures as well as tax advice. We ensure proper registration of aircraft in the official aircraft register. We also assist our clients in registering liens with the competent authority. In addition to aircraft finance, turbine leasing has become a significant field in which we provide advice in our everyday practice. Furthermore, we draft, negotiate and document all kinds of agreements for the aviation industry such as the code sharing agreements, ground handling agreements, aircraft maintenance agreements, turbine maintenance agreements, conversion agreements (dealing with conversion of passenger aircraft to freighter).

Moreover, Mayer Brown has extensive experience in all major types of asset financing transactions, including:

- **Cross-Border and Other Sophisticated Structures** – Owing to our representation of participants in such transactions, we are conversant in the most sophisticated lease structuring techniques, including cross-border transactions and "double dips".



- Leveraged Leases – We have frequently worked on leveraged leases involving almost every type of asset.

Our lawyers who specialize in asset financing transactions are attuned to the rapidly changing developments in the world of asset finance. In an era of increased financial pressure from deregulation and privatization, conservation of capital and flexibility in operations have become the highest priorities for airline operators and other asset types. The primary objective of Mayer Brown asset finance lawyers is reconciling the goals of operators with the goals of prudent debt and equity investors.

We have substantial experience in providing general advice on the laws of many jurisdictions and coordinating the efforts of local counsel in complex multinational transactions. In addition, our tax lawyers are well versed in the implications of all forms of transactions, particularly those with cross-border elements and multi-jurisdictional tax issues.

Our leading position in the industry was noted by Chambers and Partners' most recent survey of global law firms. We were selected among its top firms in banking

and finance in both New York and Chicago. The report described our Chicago practice as a "top-tier international banking practice" and a "banking 'powerhouse' for its sheer manpower and global coverage". Similarly, our New York practice is considered "well established" and "technically excellent".

#### **Airport Finance**

We are one of the leading advisers in airport finance transactions. We have advised globally on airport projects with a total volume of more than USD 2 billion. We structured the financing of airport projects in Argentina, the United States, Chile, Colombia, Austria and Russia.

The financing instruments (most of which have been developed by our lawyers) are frequently used as model documentation for transactions in other jurisdictions. In airport finance matters we represent airport companies and investors as well as banks and financial institutions. We have also been retained by rating agencies. Our comprehensive portfolio of legal services includes negotiating services and drafting complete sets of transaction documents. We also provide services related to financing



agreements as standard and syndicated loans, bonds as well as capital market funds and credit security instruments. For additional information please consult our special airport finance webpage site:  
[www.projfinlaw.com/areas/airportfinance.asp](http://www.projfinlaw.com/areas/airportfinance.asp).

### **Antitrust and Competition Law**

When advising on aviation matters, we are frequently confronted with aspects of Antitrust and Competition Law. Antitrust and Competition Law become relevant when airlines and/or airports decide to cooperate on a formalized basis. In this case, our aviation lawyers work hand in hand with our Antitrust and Competition Law experts in our German offices, as well as in Brussels and Washington. Working closely with our colleagues in Washington, we also help our clients to promote legislative proposals with the support of our government relation experts and to analyze recent developments affecting the aviation industry. When necessary, we have also represented our clients in Antitrust and Competition Law suits (e.g. in the European Court of Justice in Luxemburg).

### **Aviation Law (Regulatory)**

Our Global Aviation & Airports Group consists of lawyers widely recognized as aviation specialists having extensive experience in regulatory aspects relevant to the aviation industry.

This expertise covers all aspects of European and German Aviation Law. For instance, we frequently deal with aircraft noise issues (including night flight restrictions). We also obtain operation permits, traffic rights as well as slots for aircraft take-off and landing for our clients. We have been involved in issues arising out of the distribution of air traffic between airports within an airport system and delivered an expert opinion on the establishment of a new German airport system in accordance with Art. 8 of the Council Regulation (EEC) 2408. We frequently advise clients on issues in the context of the liberalization of the groundhandling market at Community airports required by Council Directive 96/67/EC and the German Ordinance on Groundhandling Services at Airports. We have advised air carriers on safety rules for air transports.

Our lawyers are also experts in the field of airport fees. They have advised airports on the implementation of new airport fees and on the reorganization of remuneration systems. Furthermore, our lawyers are highly skilled and experienced in all aviation related litigation issues.

### **Commercial Contracts**

Our Commercial team offers advice on a wide range of commercial matters to companies from all industry sectors. This includes comprehensive commercial contracts, such as distribution agreements, manufacturing and tolling agreements, supply contracts, sponsorship contracts, licenses, collaboration and co-operation agreements and leasing and hire agreements.

Many of our lawyers have either been in-house or have been on secondment to clients. They are also able to draw on the experience that they have consequently gained, such as experience relating to the drafting and negotiating of these agreements. Therefore, they understand the requirements of commercial managers in the way of legal

support. We also have a wide range of experience advising on internal reorganizations, from the point of view of both corporate structural arrangements and the implications on transferring existing commercial agreements.

### **Construction & Engineering**

Few areas in any major law practice have such a specialized industry focus as Mayer Brown's Construction & Engineering Group. For over 25 years, the Group has provided dedicated, practical advice to all sides of the construction and engineering industries, including employers, contractors and professionals. The Group also has a thriving professional indemnity insurance practice.

With a large team of dedicated lawyers based in Europe, the Construction and Engineering Group has been consistently ranked as a leading group in the UK and Europe by the Chambers and Partners and The Legal 500 directories. We advise on a full range of contentious and non-contentious construction as well as engineering matters.

As a consequence of our competence, we frequently support our clients in the extension of airports. In addition to our Construction and Planning Law expertise, we regularly advise airport operators on construction projects worldwide on specific regulatory aspects.

Under the Federal German Aviation Act, the construction or extension of airports requires specific approval ("Planfeststellung" and "Plangenehmigung") by the respective competent state aviation authority unless the extension is not of an insignificant nature and a so-called "negative attest" has been granted. We have a broad range of experience in advising large construction programs outside the Aviation Industry and we use this experience for planning procedures under the German Aviation Act. In particular, we have in-depth knowledge on complex questions such as noise protection (aircraft and ground noise) as well as other construction and business specific impacts on the environment. These aspects are dealt with by the Environmental Impact Assessment ("Umweltverträglichkeitsprüfung"), which is an integrated part of the planning procedure. We advise on environmental issues in close cooperation with our technical advisors.



Our services include the review and, to the extent necessary, verification of expert opinions from a legal perspective. We ensure that such opinions are free of contradictions and do not contain any information that could unnecessarily increase the risk of third party actions against the construction project.

### **Corporate/Privatization/Tax/Competition**

Our worldwide corporate practice encompasses our securities, mergers and acquisitions, and corporate governance specialist areas. We are also highly experienced in privatization work and have advised on a range of European projects over the last decade.

We are widely known as transaction specialists. Internationally, including Germany, we have advised on a variety of corporate transactions in the aviation industry (in both civilian and military projects).

Our transaction experience also includes the privatization of airports. We were involved in the first airport privatization project in Germany (i.e. the privatization of Düsseldorf Airport), in which we advised one of the bidding consortia up to the last round of negotiations on all relevant legal aspects. We delivered advice not only with respect to Corporate Law, but also concerning all regulatory aspects, including construction and emission issues, the validity of various airport fees and the liberalization of groundhandling services. We drafted and nego-

Other areas of particular relevance to the aviation industry may be:

- Tax – We offer a broad based corporate tax practice providing full service on all corporate/commercial issues of direct and indirect taxes, in relation to mergers and acquisitions, reorganizations, buy-outs and joint ventures. Mayer Brown also provides specified project advice, planning and structuring advice, specialized tax dispute resolution service, and advice relating to employee share incentives.



tiated contractual provisions on future increases of capacity and we negotiated related aspects such as proper connection of the airport to the public transport infrastructure. We also understand the interests of the seller or concession grantor. They often focus on provisions ensuring the buyer or concessionaire will meet certain service levels and maintenance standards. As member of a different law firm, another partner has led the team advising Fraport, one of the largest airport groups worldwide, on its initial public offering (IPO) and stock exchange listing.

- Joint Ventures – We help companies achieve synergies and efficiencies in a particular product or service market with the financial and other resources needed to bring a concept to market. Our experience includes obtaining necessary national and EU merger clearance, negotiation and implementation of exit rights and strategies including the sale of, or public offerings by, the joint venture. We also advise on control and management structures, deadlock resolution mechanisms, and rights to intellectual property and products developed by the joint venture.

- Compliance – We offer comprehensive services providing assistance in ensuring businesses are fully compliant with all statutory requirements and obligations.
- IT/Outsourcing – We advise regarding onshore and off-shore transactions, including the outsourcing of IT infrastructure operation and support, telecommunications services, network management and support, e-commerce transaction processing and support, help desk services and support, leasing/procurement, applications development and maintenance, finance and administration and human resources services.
- Restructuring & Insolvency – We have a dedicated team advising on all aspects of restructurings, work-outs and insolvency matters, cross-border re-financings, bankruptcy, liquidations, acting for lenders, insolvency practitioners, creditors and debtors.
- Corporate Finance/Capital Markets – The corporate finance team represents issuers, investment banks, investment trusts, mezzanine and leveraged buy-out funds and other financial institutions and intermediaries in a range of transactions involving public offerings or private placings of securities in Germany, the UK, US and other international markets. Expertise includes advising on initial public and secondary offerings, Rule 144A transactions, rights issues, open offers and vendor placings, and public take-overs.
- Financial Services – We provide advice to clients on legal and regulatory issues concerning publicly traded securities including reporting and disclosure requirements, restrictions on dealings, market abuse, financial promotion and the like. We work closely with investment and commercial bankers as well as our tax specialists in developing new financial products. Our lawyers have extensive experience in dealing with regulatory bodies including, in particular, the German Federal Financial Supervisory Authority Bafin, the UK Financial Services Authority FSA, the UK Listing Authority, the Takeover Panel and the SEC.

## Employment

Mayer Brown has an extensive practice representing employers in a broad range of labor and employment-related matters. Generally, our work covers all aspects of



Employment and Industrial Relations law and practice, as well as the conduct of employment litigation in employment tribunals and other courts. We have considerable expertise in advising on all areas of employment encompassing everything from legal audits, reviews, outsourcings and injunctions to obtaining work permits.

## Environment / Health & Safety

Mayer Brown's environmental practice area is one of the premier Environmental Law groups worldwide. Our aim is to maximize our extensive resources to create added value solutions to the full range of environmental and health and safety problems encountered by businesses in today's increasingly complex regulatory and litigious atmosphere.

We regularly win high profile cases and conduct due diligence and negotiations for hundreds of significant transactions internationally. In addition, we negotiate and appeal for permitting issues, comment on and challenge proposed regulations and advise on all kinds of environmental issues.

## Our practice falls broadly into four categories:

- Environmental and Health and Safety Issues in Transactions – A substantial part of the practice involves identifying, evaluating and managing environmental risks in multi-jurisdictional corporate, real estate and finance transactions. Working with our clients, we take an appropriate, consistent and cost-effective approach

to managing the due diligence/disclosure process and negotiating appropriate protections, often across several jurisdictions, with the aim of delivering practical, commercially effective solutions.

- **Environmental Litigation** – Our team is highly-regarded for its substantial experience in environmental litigation. Members of the team have litigated a broad range of cases, including civil enforcement actions, statutory cleanup actions, refusal of environmental permits, environmental prosecutions and toxic tort actions. We provide advice on all areas of Environmental, Health and

range of sectors. We work hand-in-hand with company managers to plan for and minimize the impact of regulatory compliance issues, and we are experienced in developing tailored policies for managing and responding to environmental and health and safety incidents.

- **Environmental Issues in Projects** – Managing environmental issues effectively can be critical to the success of new projects. Environmental impact assessments and the need to secure permits quickly require an understanding not just of applicable regulations, but also of the interests of a variety of stakeholders. We regularly



Safety Law such as that relating to emissions, soil protection, waste, water, chemical substances, dangerous goods, as well as areas such as Health and Safety, Planning and Building Law. In addition, we provide crisis management and on-the-scene assistance in the case of environmental disasters, defend related lawsuits and also represent policy holders in environmental coverage litigation.

- **Environmental Compliance** – Environmental and Health and Safety Law is becoming increasingly complex and wide-ranging. Our team has considerable experience in advising on regulatory compliance issues across a wide

handle these issues in the context of major infrastructure and other construction projects around the globe, including negotiating permit applications and advising on contract and finance documentation.

### **Insurance**

Our Insurance & Reinsurance Group is experienced in all contentious areas (court proceedings, arbitrations and ADR), advising in connection with coverage disputes and handling the defence of claims. We also provide a wide range of non-contentious services including policy drafting, audit services and due diligence investigations, risk



assessments and tax advice, advice relating to insurance insolvency issues and insurance regulatory issues.

Our expertise encompasses all of the conventional professional indemnity sectors, such as accountants and auditors, actuaries, and professional trustees, as well as more unusual risks, from lottery consultants to public authorities.

We have established our reputation in defending insured professionals and advising underwriters on the coverage issues which arise in this context. On the non-contentious side, we regularly advise on the drafting of professional indemnity wordings as well as reviewing and undertaking risk management evaluations. We also run workshops on claims handling protocols and topical market issues.

We have advised on claims and arbitrated disputes under aviation reinsurance contracts relating to well-known market losses such as the Iraqi invasion of Kuwait in 1990, the attack on Colombo International Airport in Sri Lanka in June 2001 and the World Trade Center attack on September 11.

### **Litigation**

Litigation is the largest practice group at Mayer Brown. More than 300 of the firm's attorneys are litigation, trial, and appellate specialists. Collectively we offer a depth and breadth of experience that is equaled by only a handful of the top law firms. Our clients cover a range of industries. We are national counsel to many companies on a wide range of specific litigation issues. As long-time counsel to United Airlines, we have handled litigation in practically all types of issues in the industry, including major antitrust appellate cases. Our experience covers passenger complaints, baggage and cargo complaints, civil and criminal issues, and appearance before the tribunals and courts.

### **Procurement**

Both Public and Private Procurement Law is a significant part of our daily business. Procurement issues under European and German procurement laws become relevant when advising airports due to the fact that the infra-



structure providers ("Sektorenauftraggeber") are required by law to undergo formal procurement proceedings with regard to the purchase of supplies and services, including construction services. The awarded contracts are frequently challenged at the Procurement Chambers, where we represent both successful bidders and procuring entities in defending the procurement process and its outcome in order to achieve a speedy and effective discharge of the procured services to the greatest possible benefit of their respective purchaser.

### **Product Liability**

Due to the global nature of the aviation industry and the risk of huge liability claims, product liability is a major concern of manufacturers, suppliers and importers of aircrafts. Our clients regularly request advice on product liability issues arising out of the construction of aircraft and, likewise important, the construction of aircraft components. We regularly advise our clients on the structure and establishment of special protection programs to minimize product liability claims based on statutory or contractual provisions. If necessary we defend our clients in courts.



Our clients highly appreciate the prevention programs structured by us including our regular seminars on “Product Liability in the Air and Space Industry”.

#### **Real Estate**

Our European Real Estate practice includes more than 20 partners and 40 lawyers.

Our clients range from property developers to financial institutions as well as companies that have substantial property portfolios. They include some of the best known retailers and large industrial corporations, all of whom we advise on contentious and non-contentious work. Our experience on both sides of the issues, acting for landlords and tenants, allows us to be pragmatic in our approach to transactional work to achieve quick conclusions to transactions when acting for end users.

#### **Transportation Law**

Transportation Law is another important practice area of our Global Aviation & Airports Group. We frequently advise on contractual and statutory liability issues arising out of intra-German and international transports of both passengers and freight.

In this respect, we specifically deal with issues arising out of the Warsaw and Guadalajara Conventions and Montreal Protocols. Additionally, the Convention on the

Contract for the International Carriage of Goods by Road (CMR), and, in the event of domestic transport issues, the relevant provisions of the German Commercial Code (HGB) often play an important role. In liability cases, claims arising out of inappropriate and negligent organization of business operations (“Organisationsverschulden”) is another important aspect. In this respect, we advise our clients on how to organize their businesses in compliance with the relevant laws and precedents and we propose practical solutions for economically efficient realization.

#### **Our Approach**

Our approach to managing relationships with all of our clients is based upon understanding their business and anticipating their needs, thereby enabling us to provide proactive rather than reactive service. In order to provide seamless service, it is particularly important to gain an understanding of the client’s strategy and business needs. This serves to aid the team to be proactive and responsive to the transaction and to our client’s business. Understanding and adhering to the client’s manual of policies and procedures is another important aspect in providing a tailored and responsive service.

We believe that we are different from other full service law firms in many respects.

Firstly, we genuinely practice a “partner led” service with partners who are recognized by their peers as being pre-eminent in their particular field, leading small, focused teams to deliver a high quality service. We are proud of our reputation for not over-staffing transactions. Legal work is carried out by the most appropriately qualified lawyer, while quality control is achieved through partner supervision, allowing us to deliver an excellent service in a cost effective way.

Secondly, we have a strong industry focus, with the firm being outward facing with specialist teams servicing the business requirements of clients operating in a number of sectors. The aviation sector is one of the firm’s focus areas.



Thirdly, we have a reputation for putting ourselves in the client's shoes. We understand that clients want business solutions, not mere legal advice. A number of our partners formerly held senior in-house positions in leading industrial and global companies and a number of our partners and lawyers have enjoyed periods of secondment to our major clients. This gives us a strong service mentality as well as a keen commercial appreciation which we rely upon when working with our clients.

We pride ourselves on a creative, pro-active approach to client care and the development and maintenance of client relationships. Building personal relationships is a vital part of ensuring the delivery of our service and an integral element of our client care program. Our focus is to continually improve our service to clients, and conse-

quently we review our procedures to ensure maximum effectiveness at every level. Our quality assurance procedures, combined with the liaison and review role, which our relationship partners have, will ensure that you receive a consistently high level of service.

We are proud of our ability to project manage our teams for the benefit of our clients and the firm. We can deliver a quality of service efficiently: our teams are kept as small as possible with clear reporting lines and regular project meetings, so that all of our lawyers understand our clients' expectations and our partners fully understand how each aspect of a deal is progressing. We also have extensive experience in managing European and global transactional projects. In addition to this, we regularly advise major clients on significant multi-jurisdictional projects.

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New York · Palo Alto · Paris · São Paulo · Washington D.C.

Mayer Brown is a combination of two limited liability partnerships: one named Mayer Brown LLP, established in Illinois, USA; and one named Mayer Brown International LLP, incorporated in England.

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